

REMARKS

Applicants hereby elect, with traverse, to prosecute Group II, which corresponds to newly added claims 46, 48, 49, 51, 53-60, drawn to antibodies to human nucleotide pyrophosphohydrolase-2, compositions containing them, and methods of making them. Newly added claims 45-62 replace claims 1, 10, and 29-44, and are drawn to substantially the same invention.

As a preliminary matter, Applicants respectfully draw to the Examiner's attention the fact that original claim 43 (corresponding to newly added claim 61) was not included in any of the Groups enumerated in the Restriction Requirement. Claim 61, which depends from claim 46, is drawn to a method of detecting a polypeptide having an amino acid sequence of SEQ ID NO:1 in a sample.

Applicants hereby elect, with traverse, to prosecute the claims of Group II, which corresponds to newly added claims 46, 48, 49, 51 and 53-60, drawn to antibodies to human nucleotide pyrophosphohydrolase-2, compositions containing them, and methods of making them. Applicants traverse the Restriction Requirement for at least the following reasons.

First Applicants submit that newly added claims 47 (Group III), 50 and 52 (Group IV), 61 (drawn to a method of detecting a polypeptide having an amino acid sequence of SEQ ID NO:1 in a sample) and 62 (Group V) are "methods of making" and "methods of use" claims which depend ultimately from product claim 46. Thus, these non-elected process claims are drawn to the same scope of products defined by claim 46, and there would appear to be no undue burden on the examiner to consider all of the pending claims together.

Moreover, upon allowance of claim 46, claims 47, 50, 52, 61 and 62 should be rejoined and considered, in accordance with the Commissioner's Notice in the Official Gazette of March 26, 1996, entitled "Guidance on Treatment of Product and Process Claims in light of *In re Ochiai*, *In re Brouwer* and 35 U.S.C. § 103(b)."

Further, Applicants respectfully submit that there is minimal additional burden on the Examiner to examine newly added claims 63 and 64, drawn to polynucleotides, since claims directed to "polynucleotide inventions" have already been issued in the parent case, which is now US Patent NO. 6,124,095. New claims 63 and 64 are drawn to substantially the same invention as claims 1-8 of US Patent NO. 6,124,095, but are of a different scope. Applicants respectfully request that the Examiner consider examining the polynucleotide claims 63 and 64 in addition to the elected claims of Group II in

view of the searches and examination which were already conducted with respect to the previously issued claims and the additional burden on Applicants to file, prosecute and maintain yet another application in this family.

Applicants reserve the right to prosecute non-elected subject matter in subsequent divisional applications.

Applicants believe that no fee is due with this communication. However, if the USPTO determines that a fee is due, the Commissioner is hereby authorized to charge Deposit Account No. 09-0108.

Respectfully submitted,

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VERSION WITH MARKINGS TO SHOW CHANGES MADE
IN THE CLAIMS

Claims 1, 10, and 29-44 have been canceled.

New claims 45-64 have been added.